

A.D. 1883.

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SCHEDULES.

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B I L L

TO

Consolidate and amend the Acts for facilitating the Improvement of Landed Property, and for the Drainage and Improvement of Lands in Ireland. A.D. 1883.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

5 *Preliminary.*

1. This Act may be cited as the Land Improvement and Arterial Drainage (Ireland) Act, 1883. Short title and commencement of Act.

This Act shall come into operation on the *first day of April one thousand eight hundred and eighty-four*, which day is herein-
10 after referred to as the commencement of this Act.

2. This Act shall extend only to Ireland.

Extent of Act.

PART I.

IMPROVEMENT OF LAND.

3. Every owner of land proposing to undertake under the provisions of this Part of this Act any work for the improvement of any land of which he is owner may make application in writing to the Commissioners for a loan ; and such application shall contain such particulars and be accompanied by such plan of the said land, and such plan, estimate, and specification of the proposed work, as may
20 be prescribed or required by the Commissioners.

Application for loan, and preliminary proceedings thereupon.

The Commissioners may thereupon, if they think fit, cause the said land, and the said plans, estimate, and specification, to be inspected and examined by a competent person, who shall make a report thereon, and shall in such report declare whether or not in

[Bill 189.]

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A.D. 1888. his opinion the proposed or any other work will effect immediately or prospectively an improvement in the annual value of the land to an amount exceeding the utmost annual amount to be charged thereon as herein-after mentioned in respect of the loan applied for, or the sum necessary to be expended, and he shall annex to such 5 report either the same or (if he thinks fit, for the purpose of carrying out the work in a substantial and durable manner) some other plan, specification, and estimate; and the Commissioners may make such further and other inquiries in relation to any such application as they may think fit, and may alter or modify any such plan, specifi- 10 cation, and estimate, in such manner as they may think fit.

Proceedings
where Com-
missioners
entertain
application.

4. Where application is made to the Commissioners for a loan for the improvement of land, and they after such inquiries and report as herein-before mentioned think fit to entertain such appli- 15 cation, the following proceedings shall take place; that is to say,

(1.) The Commissioners shall publish notice of the application once in the Dublin Gazette, and on *two* successive weeks, (once at least in each week) in some newspaper circulating either in Dublin or in the county in which the land in relation to which the application is made is situate; the said notice 20 shall contain the name of the applicant, and such description as the Commissioners think sufficient of the said land, together with the amount of loan applied for; and all persons claiming to be interested in the said land, and all other persons whom it may concern, shall be required by the said notice to send to 25 the Commissioners within a period appointed in the said notice (being not less than *fourteen* days from the said publication in the Dublin Gazette) their objections (if any) to such application, or to any statement therein contained, or to the loan applied for, with their reasons for such objections: 30

(2.) In case any person within the said appointed period signifies in writing to the Commissioners any such objection as aforesaid, and the nature of his estate or interest in or charge upon the said land (if any), the Commissioners shall notify such objection to the applicant, and shall by notice given to the applicant and 35 to any person signifying such objection as aforesaid appoint a day and place for hearing such objection; and on the day and at the place appointed the Commissioners or any one of them shall hold a meeting, and hear and inquire into such objection, and all such other matters relating to the application as are 40 then and there brought before them or him:

- (3.) After full inquiry has been made as aforesaid into all such objections and other matters, or, in case no objection has been made, then at any time after the expiration of the period limited for making such objections, the Commissioners, if they are satisfied that it will be beneficial to all persons interested in the land to which such application relates that such loan should be made, may make such order as they think fit with respect to the making of such loan, and the execution of the proposed work according to any plan, specification, and estimate approved by them; and such order shall specify the lands to be charged with such loan.

A.D. 1883.

The Commissioners may fix for the completion of the work for which any such loan is made such period, and from time to time such further period, within seven years from the date of the first advance in respect of such loan, as they think fit.

5. Where the Commissioners make an order for a loan for the improvement of land they shall execute a duplicate thereof, and shall, at the expense of the applicant forthwith cause the said duplicate to be registered in the office for registry of deeds in the city of Dublin.

Registration
and effect of
order for
loan.

From the date of such registry, the lands specified in that behalf in the order shall be charged, in manner provided in this Part of this Act, with an annuity for the repayment with interest of all sums from time to time advanced on account of the said loan.

Every such order in respect of the lands therein specified shall be binding upon all persons having any estate or interest in such lands, or lien or incumbrance thereon, and shall be conclusive evidence that the several proceedings herein-before directed to be taken and observed have been duly complied with; and that all objections to the making of any loan have been withdrawn, disallowed, or removed; and such order of the Commissioners, or any advances of money to be made in pursuance thereof, shall not be questioned in respect of any thing whatsoever done or omitted to be done under the provisions of this Part of this Act, or for any other reason whatsoever.

6.—(1.) Any lands charged for the repayment, with interest, of a loan made by the Commissioners in pursuance of this Part of this Act, shall be charged with the payment to the Commissioners of an annuity of *six and a half* per cent. on the amount advanced on account of such loan; and such annuity shall be payable for the term of *twenty-two* years, commencing, as to every advance made in respect

Charge on
land of
annuity for
repayment
of loan.

[189.]

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A.D. 1863. of such loan, on the then next *fifth of April or tenth of October*,
whichever of those days next succeeds the date of such advance :

Provided that the Commissioners, if they think fit, may, with the consent of the Treasury, substitute an annuity of *five per cent.* for the said annuity of *six and a half per cent.*, and in that case *thirty-five* years shall be substituted for *twenty-two* years as the term during which such annuity shall be payable.

(2.) The annuity shall be paid by equal half-yearly payments on the *fifth of April and tenth of October* in each year, and the first of such payments shall be made on whichever of the said days next 10 succeeds the day on which the said term of *twenty-two* years or *thirty-five* years (as the case may be) commences.

(3.) The Commissioners may charge interest on any such advance as aforesaid at the rate of *three and a half per cent.* per annum from the date of such advance until the commencement of the 15 term for which the annuity charged for the repayment of such advance is payable ; and any interest so payable shall be added to and be deemed to be part of the advance for the repayment of which the said annuity is charged.

(4.) The said annuity shall have priority over all existing and 20 future estates, interests, and incumbrances, with the exception of quitrents and other charges incident to the tenure, rentcharges in lieu of tithes, and any charges created under any Act authorising any advance of public money, or under any Act creating charges in respect of improvements on lands, and passed before this Act, 25 with the exception also (in cases where the lands are subject to a fee-farm rent, or held under a lease reserving rent) of such fee-farm rent or rent reserved as aforesaid.

(5.) The said annuity or any part thereof may at any time, at the option of the person for the time being liable to pay the same, he 30 redeemed according to a schedule to be prepared in the prescribed manner.

(6.) The owner for the time being of the land shall be the person liable to pay the annuity charged on such land.

(7.) The occupier of any land charged as aforesaid, not being the 35 owner thereof, may pay any sum due upon such land on account of the annuity, and shall be authorised to deduct such sum from the rent payable by him to his immediate landlord, and the immediate landlord of any person making such deduction from his rent may, if he is not such owner as aforesaid, make the same 40 deduction from the rent payable by him in respect of the same land : Provided that nothing herein contained shall authorise such

deduction to be made in respect of any costs or expenses incurred in consequence of the non-payment of an annuity. A.D. 1883.

(8.) The Commissioners, on the application of the owner (not being the occupier) of any land charged with the payment of any such annuity, shall by order determine the annual sum (if any) to be paid by the occupier of such land by reason of the increased value thereof arising from any work executed in pursuance of this Part of this Act; and the Commissioners in fixing the said annual sum shall have regard to the nature of the said work, and the benefits arising therefrom to the said occupier, and generally to the justice of the case; and any person to whom the said annual sum is payable, if he is not such owner as aforesaid, shall pay a like sum to his immediate landlord; and any such sum shall be deemed to be part of the rent payable by such occupier or person in respect of such land, and shall be paid and recoverable accordingly:

Provided that—

(a.) Before making an order for the payment of any such annual sum, the Commissioners shall give the prescribed notice to the occupier of the land for the purpose of enabling such occupier to appear before them and make any reasonable objection to such order, and shall duly consider any such objection made to them at the time appointed for that purpose by the said notice; and

(b.) The Commissioners shall not make an order for the payment of any such annual sum in the case of any land in respect of which a statutory term within the meaning of the Land Law (Ireland) Act, 1881, is subsisting, unless they are satisfied that the increased value of such land arising or anticipated from the said work was not taken into account in the determination of the rent payable in respect of such land during the said statutory term; and

(c.) An annual sum, payable as aforesaid, shall not be deemed an increase of rent for the purposes of section four of the Land Law (Ireland) Act, 1881.

7. Every annuity for the repayment with interest of a loan made in pursuance of this Part of this Act shall be recoverable by the Commissioners in manner in which rentcharges in lieu of tithes are recoverable in Ireland; and a certificate under the common seal of the Commissioners shall be evidence that the amount of any annuity or arrears of annuity stated therein to be due under this Part of this Act from any person named therein is due to the Commissioners from such person. Recovery of annuity.

A.D. 1881.

Annuity not
to preclude
trustees from
investing
money in
land charged.

8. An annuity charged on any land for the repayment of a loan made by the Commissioners in pursuance of this Part of this Act shall not be deemed such an incumbrance as precludes a trustee of money from investing the same in a purchase or upon a mortgage of the land so charged, unless the terms of such trust expressly provide that the trust money shall not be so invested; and any trust moneys already invested, lent, or charged on any land which may become charged with such annuity may, if the trustee think fit, be continued on the security of the said land, notwithstanding the imposition of such annuity; and a guardian, committee, trustee, executor, or administrator shall not be obliged to signify an objection to any application or order affecting the said land made in pursuance of this Part of this Act, or be in anywise responsible for the consequence of such application or order, or the charge made in pursuance thereof.

Power to
modify work,
and make
further loan.

9. Where the Commissioners have made a loan for the improvement of any land, they may, if they think it expedient so to do, in the prescribed manner and on the application of the owner of such land, sanction any alteration or modification of any plan, specification, or estimate approved by them relating to any work for such improvement, and substitute any new plan, specification, or estimate for any plan, specification, or estimate formerly approved by them.

Where the Commissioners sanction any alteration or modification of any work for the improvement of land for which they have made a loan, and it appears to them that in consequence of such alteration or modification it is expedient to make a further loan for the improvement of such land, they may on the application of the owner, and with the consent of the Treasury, make a further loan not exceeding *one-fifth* part of the original loan; and the order of the Commissioners directing any such further loan shall be sufficient, without any such other proceedings as are herein-before directed with respect to the original loan, and a duplicate thereof shall be registered in like manner as a duplicate of the original order is required to be registered; and the order directing such further loan shall have the same effect as such original order; and the lands therein specified shall thereupon become charged with an annuity to the Commissioners for the repayment with interest of all sums from time to time advanced on account of such further loan; and all rights, remedies, and proceedings respecting the advance and repayment of a loan made in pursuance of such further order, and otherwise in respect of such loan and annuity, shall be the same as

in the case of a loan and annuity made and charged in pursuance of an original order. A.D. 1863.

10. Where the Commissioners, having made a loan for the improvement of any land, are of opinion that a sufficient improvement in such land can be carried out at a reduced expenditure, they may, for the purpose of effecting such reduction of expenditure, alter any plan, specification, and estimate originally approved by them, and they may also withhold any instalment or part of the loan originally agreed to be made for the proposed work to an extent corresponding in their judgment with the reduced expenditure.

Power to reduce expenditure and withhold part of loan.

11. Any owner of land, upon receiving any part of a loan from the Commissioners in pursuance of this Part of this Act, or (with the sanction of the Commissioners) before receiving any part of such loan, may by himself, his engineers, agents, and workmen, from time to time enter upon any lands for the improvement of which such loan was agreed to be made, making compensation to any person entitled thereto for any injury done or caused by such entry, and execute any work for the improvement of the said lands which is authorised by an order of the Commissioners or is in accordance with any plan or specification for the time being approved by them, and do all such acts and things as may be necessary to keep the said work, when executed, in repair, so long as the said lands or any part thereof continue charged with an annuity for the repayment of the said loan, notwithstanding that any other person or persons may have any other estate or interest in the same lands.

Power to owner to enter on lands and carry out works.

In default of agreement as to the amount of such compensation, proceedings may be taken in a summary manner for ascertaining the amount thereof, and the court before whom such proceedings are taken shall make such order as they may deem just for the payment of the amount of such compensation, and the said order shall be final and conclusive:

Provided that the said owner and any person authorised by him may exercise any of the powers conferred by this section previously to or pending the decision of any question as to such compensation.

12. If default is made in the due application of a loan or of any instalment of a loan made by the Commissioners in pursuance of this Part of this Act, or if the person for the time being bound to execute any work for which any such loan has been made or agreed to be made omits or neglects so to do, the Commissioners may, if they think fit, with the consent of the Treasury enter upon

Power to Commissioners to complete works in case of default.

A.D. 1883. such land, and proceed to complete the necessary work, and shall for that purpose have all the powers exercisable by such person.

All expenses incurred by the Commissioners for the completion of the said work shall be deemed to be part of the loan agreed to be made by them, and they may by order fix the date from which 5 any annuity in respect of any payment made by them after having so entered is to be computed, and the day whereon the first payment thereof is to be made.

In any case in which the Commissioners have entered upon any lands as in this section mentioned, if the residue of the loan 10 originally agreed to be made by the Commissioners is not, in their judgment, sufficient to complete the work, they may, with the sanction of the Treasury, expend such further sum as they may think beneficial to all persons interested in the land, and necessary to make any work commenced effective for the improvement of 15 the land; and a duplicate of the order of the Commissioners directing any such further expenditure shall be registered in like manner, and shall have the same effect, as a duplicate of an order directing a loan in pursuance of this Part of this Act; and the lands 20 therein specified shall, from the date of such registry, become charged with an annuity to the Commissioners for the repayment with interest of any expenditure incurred in pursuance of such order; and all rights, remedies, and proceedings respecting the advance and repayment of a loan for the improvement of land, and otherwise in respect of such loan, and the security therefor, shall 25 be applicable in the case of such expenditure.

Works to be
maintained.

13. So long as any land continues charged with any annuity for the repayment of any loan made or expenses incurred by the Commissioners in pursuance of this Part of this Act, the person for the time being bound to pay such annuity shall be bound to 30 maintain in good order any work on account of which the land has been so charged, and, in default of so maintaining any such work, shall be liable to an action for the damage occasioned by such default, at the suit of the person then entitled to the next estate in remainder or reversion in the said land.

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Power to
Commissioners to
summon wit-
nesses.

14. For the purpose of any inquiry or proceeding made or taken by the Commissioners, or any one of them, in pursuance of this Part of this Act, the Commissioners may by summons under their common seal require the attendance before them, or one of them, of any person whose evidence they may deem requisite, and they or one of 40 them may examine such person on oath or otherwise, and such person shall be allowed the reasonable charges of his attendance; and

the Commissioners may also for the like purpose and by a like summons require any person to produce any document in his possession or control relating to any matter connected with such inquiry or proceeding. A.D. 1883.

- 5 Any person who, after the delivery to him of such summons as aforesaid, or of a copy thereof, refuses or wilfully neglects to appear before the Commissioners, or one of them, or to answer upon oath, or otherwise, as may be required of him, such questions as are put to him by the Commissioners, or one of them, respecting any matter
10 connected with any such inquiry or proceeding, or to produce any such document in compliance with such summons, shall be liable to a penalty not exceeding *five pounds*, to be recovered in a summary manner, and the decision of the court before whom any proceedings for the recovery of such penalty are taken shall be final; provided
15 that a person shall not be required to attend in obedience to any such summons unless the reasonable charges of his attendance have previously been paid or tendered to him.

15. Nothing in this Part of this Act shall be taken to authorise any person to execute any work below the high-water mark of the
20 sea or of any tidal waters without the consent of the Board of Trade signified in writing signed by one of their secretaries or assistant secretaries, or to execute any work on any other land belonging to Her Majesty in right of Her Crown without the consent in writing of the Commissioners of Her Majesty's Woods, Forests, and Land
25 Revenues; and the Commissioners shall not make any loan to any person for any such work as is mentioned in this section without obtaining such consent as herein-before mentioned.

16. The following Acts; that is to say,
30 (1.) The National School Teachers' Residences (Ireland) Act, 1875, and any enactments amending the same; and
(2.) The Dispensary Houses (Ireland) Act, 1879,
shall be incorporated with this Part of this Act, save so far as the provisions of those Acts may be inconsistent with the provisions of this Part of this Act or any of them.

*Saving of
rights of
Crown and
Board of
Trade.*

*Acts incor-
porated.
38 & 39 Vict.
c. 83.
42 & 43 Vict.
c. 24.*

A.D. 1893.

PART II.

ARTERIAL DRAINAGE.

*Formation of Drainage District.*Application
to Commis-
sioners to
form drain-
age district.

17.—(1.) Any person or persons interested in any land which is liable to be flooded or injured by water, or in any land whereof the drainage is capable of being improved, may make application to the Commissioners for the formation of a drainage district and the execution in such district of works for arterial drainage. 5

(2.) Such application shall be made by petition describing and setting forth, by reference to a map and by plans and sections, the proposed boundaries of the district and the works for arterial drainage proposed to be carried out in such district, with the probable expense of such works; the petition shall be signed by the petitioners, and shall be accompanied by a schedule showing the names of the reputed owners and occupiers of the lands comprised in the district or likely to be affected by the proposed works, and the annual value of the land belonging to such owners respectively, and the estimated increase in such value to result from the proposed works, and shall contain such further particulars and be supported by such evidence as may be prescribed or required by the Commissioners. 10 15 20

(3.) If the Commissioners signify their intention to entertain the application, the petitioners shall cause copies to be made of such petition, map, plans, sections, and schedule, and shall cause such copies to be deposited at some convenient place or places within or in the neighbourhood of the proposed district; and such copies shall there remain open to public inspection at all reasonable times for a period of not less than *three* successive weeks, and all persons shall be at liberty to make copies thereof or extracts therefrom. 25

(4.) Notice of the place or places where such copies are deposited shall be given and published by the petitioners in the prescribed manner, and by such notice all persons interested and having any objections to the said petition or schedule or in respect of any matter relating to the proposed works shall be required to appear and make such objections at a time and place appointed in the same notice, or in a subsequent notice published in the prescribed manner, before an inspector to be sent by the Commissioners, such appointed time being not less than *six* weeks from the publication of the first-mentioned notice. 30 35

Inquiry and
report by
inspector.

18.—(1.) If the Commissioners think it expedient to entertain the application, they may, after taking such security as they think fit 40

from the petitioners for the payment of the expenses of the application and the proceedings consequent thereon, send an inspector to the proposed district, and such inspector shall make all necessary investigations with respect to the propriety of constituting such district, and also with respect to the area of land to be comprised therein, and shall at the time and place appointed for the making of objections hold an inquiry, and inquire into the petition and as to the correctness of the schedule accompanying the same, and shall hear all such objections as aforesaid made by any persons interested or other persons on their behalf; the person so sent as inspector shall in no case be the same person who may have previously reported for the petitioners, nor shall the person so sent by the Commissioners be afterwards in any way employed in the execution of any of the works in the district.

(2.) For the purpose of such inquiry the inspector shall have all the powers for compelling the attendance of witnesses and examining them on oath or otherwise, and for taking affidavits and declarations, and requiring the production of documents, as are exercisable by the Commissioners for the purpose of any inquiry or proceeding by them under Part I. of this Act. Where such powers are exercisable by the Commissioners by summons under their common seal, they may be exercised by the inspector by summons under his hand, and any wilful neglect or refusal to comply with such summons or any of the requirements thereof shall be attended with the same consequences as a wilful neglect or refusal to comply with a like summons under the common seal of the Commissioners.

(3.) The inspector, after having considered all such objections as aforesaid, shall make a report in writing of the result of his investigations and inquiry, and shall cause such alterations (if any) as he thinks expedient to be made in the said petition and schedule and in the map, plans, and sections describing and setting forth the proposed boundaries of the district, and the works for arterial drainage proposed to be carried out therein, and shall sign the same and deliver them, together with his report, to the Commissioners, and copies of all the said documents shall be deposited by the petitioners with the clerk of the peace of each county wherein any part of the works are proposed to be executed, and shall be open to public inspection at all reasonable times on payment of a fee of one shilling.

(4.) The petitioners shall also lodge a copy of the report with the clerk of each union in which any part of the works are proposed to be executed, and shall give public notice in the prescribed

A.D. 1882. manner of such report having been so lodged, and shall also in the prescribed manner serve notice of such report having been so lodged on each of the reputed owners of land in the proposed district.

(5.) Objections to the report or any part thereof may at any time 5 within *three weeks* from the time when copies thereof were so lodged as aforesaid be sent to the Commissioners, in the prescribed manner, by or on the part of any owner of land in the proposed district, or any person interested in any land in such district.

Constitution
of district.

19.—(1.) The Commissioners, after having considered all such 10 objections (if any) as are made to them in the prescribed manner within the period limited for making the same, may, if satisfied with the propriety of constituting a drainage district, and that the owners of *one half* in value of the land in the proposed district are in favour thereof, and have subsequently to the report of the 15 inspector by themselves or their authorised agents assented thereto in writing, make a provisional order constituting the area mentioned in the petition or report, with such alterations of boundaries (if any) as they think fit, a drainage district, and such provisional order shall also specify the following matters:— 20

(a.) The lands authorised by the Commissioners to be purchased for the proposed works, subject to such alterations and deviations therefrom as the Commissioners may thereafter sanction; and

(b.) The nature and extent of the proposed works for arterial 25 drainage as authorised by the Commissioners; and

(c.) The time within which the said works are required to be completed; and

(d.) The number of members of which the drainage board to be constituted as herein-after mentioned is to consist, and the 30 name of such board and the names of the first members thereof, the mode of summoning the first meeting of the board, the qualification of subsequent members of the board, and the time at which the first members of the board are to vacate their offices, such time not being later than the end of the 35 month of *September* in the year following that in which such order is made; and

(e.) Such other matters as the Commissioners think proper:

Provided that a provisional order shall not be made under this section in any case in which the owners of *one third* in value of 40 the lands in the said district have, within *six weeks* after the

A.D. 1868.

lodging of the report of the inspector, expressed in writing their dissent to the formation of the drainage district; but when any portion of such lands appears to have no owner, or the owner cannot be found, such portion shall be altogether excluded in any computation that may be made of the proportion borne by the dissenting owners to the aggregate value of such land :

Provided also, that a provisional order shall not be made authorising a drainage board to remove or injuriously interfere with any millrace, milldam, weir, or other like obstruction, whereby the level of water is raised for milling or other purpose of profit, unless upon the report of their inspector they are satisfied that any injury that may be caused thereby is of a nature to admit of being fully compensated for by money.

(2.) Notice of the provisional order shall be published by the petitioners in the "Dublin Gazette," and in some newspaper circulating in the district to which it relates, and copies thereof shall be served in the prescribed manner upon the prescribed persons.

(3.) It shall be the duty of the Commissioners, as soon as conveniently may be, to take all proper steps for the confirmation of such provisional order by Act of Parliament, and when so confirmed it shall be deemed to be a Public General Act of Parliament, and take effect accordingly, but previous to such confirmation it shall not be of any validity whatever.

(4.) The making of such order shall be conclusive evidence that all the requirements of this Part of this Act in respect of proceedings required to be taken previously to the making of such order have been complied with.

20. The Commissioners may from time to time sanction any alterations which they may think proper in any works for arterial drainage authorised by their order constituting a drainage district; and they may also, upon sufficient ground being laid before them, extend the time limited by their order for the completion of any works for arterial drainage, to such further period not exceeding three years after the time originally limited as they may think proper, and may sanction within such extended time the purchase of such additional land as may from time to time appear necessary for the execution of the proposed works.

Alteration of
works and
extension of
time.

Constitution, Powers, and Duties of Drainage Boards.

21. After the constitution of a drainage district the execution of the works for arterial drainage authorised by the Commissioners

Constitution
of drainage
board.

A.D. 1883. to be executed in the said district shall be vested in a drainage board, to be called by the name specified in the order constituting such district, and such board shall be a body corporate, with perpetual succession and a common seal, having capacity to hold lands for all the purposes of their constitution. 5

From and after the date of the confirmation of a provisional order constituting a drainage district, or any later date specified in the said order, the drainage board shall be deemed to be duly constituted, and shall consist of the members nominated in that behalf in the provisional order; and such members shall vacate 10 their offices at the time specified in the said order.

Regulations
for drainage
board.

22. Subject to any provisions contained in the provisional order constituting a drainage district, the following regulations with respect to the drainage board shall have effect, that is to say:—

- (1.) The offices of vacating members shall be filled up by an 15 equal number of qualified persons to be elected in manner provided in the First Schedule to this Act:
- (2.) All members elected in manner provided in the said Schedule shall vacate their offices on the *first Thursday in September* in the year succeeding that in which they were elected, or on such 20 other day in *September* as may be directed by the board:
- (3.) Every member going out of office shall be re-eligible; and if at any time when an election of members ought to take place the places of any retiring members are not filled up, the retiring members whose places are not filled up shall continue 25 in office until the succeeding year:
- (4.) Any casual vacancy occurring in the board may be filled up by the board; but any person so chosen shall retain his office so long only as the vacating member would have retained the same if such vacancy had not occurred: 30
- (5.) During any vacancy in the board the continuing members shall act as if such vacancy had not occurred:
- (6.) Any person who acts as member of a drainage board without being qualified as required by the order of the Commissioners shall incur a penalty not exceeding *fifty pounds*; and in any 35 proceeding for the recovery of such penalty the burden of proving qualification shall be upon the person against whom such proceeding is taken:
- (7.) The board may delegate any of their powers to committees, consisting of such member or members of their body as they 40 think fit; and any committee so formed shall, in the exercise of

the powers delegated, conforma to any regulations that may be imposed on them by the board: A.D. 1883.

(8.) All acts done by any meeting of the board, or by any committee thereof, or by any person acting as a member thereof, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of the board or of such committee thereof or person acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member:

(9.) The proceedings of the board and of committees thereof shall be conducted in accordance with the rules contained in the First Schedule to this Act.

23. Subject to any provisions to the contrary contained in the provisional order constituting a drainage district, the following rules shall be observed with respect to the electors of members of the drainage board, that is to say:— Qualification
of electors.

(1.) The electors shall be the owners of lands within the drainage district for which the election is held:

(2.) Each elector shall be entitled to vote according to the scale set forth in the First Schedule to this Act.

24. The provisions of the Commissioners Clauses Act, 1847, with respect to— Certain provisions of
10 & 11 Vict.
c. 16, incor-
porated.

(1.) The contracts to be entered into and the deeds to be executed by the Commissioners; and

(2.) The liabilities of the Commissioners, and legal proceedings by or against the Commissioners; and

(3.) The appointment and accountability of the officers of the Commissioners; and

(4.) The accounts to be kept by the Commissioners: and

(5.) The giving of notices and orders,

shall be incorporated with this Part of this Act; and in the construction of this Part of this Act and the said incorporated provisions, this Part of this Act and the order constituting a drainage district shall together constitute the "Special Act"; and the drainage board shall be "the Commissioners."

25. A drainage board shall have power to execute, and when executed to maintain and repair, all works for arterial drainage authorised in pursuance of the order constituting their district, with such alterations as may from time to time be sanctioned by the Commissioners; and for that purpose the drainage board may contract for and purchase any lands, including any Drainage
board to pur-
chase lands
and execute
works.

A.D. 1883. estate, interest, or easement therein, which may, with the sanction of the Commissioners, be thought necessary or proper to be purchased, and may employ such contractors, surveyors, agents, and workmen as they think fit, and may, by themselves and such contractors, surveyors, agents, and workmen enter upon any land 5 whatsoever and proceed with any works upon such land which they are authorised to execute, and do all such things upon and affecting any land (whether within or without the drainage district) as are necessary or proper for the execution of such works, and for the accommodation of lands adjoining such works, and are sanctioned 10 by the Commissioners, making compensation to all persons for any damage occasioned to them by the exercise of such powers.

Provision
with respect
to works
outside dis-
trict.

26. The works which a drainage board may execute outside the limits of their district shall include any works which the Commissioners at any time, whether before or after the completion of the 15 works within the district, certify to be, in their opinion, necessary for preventing injury to lands outside the limits of the district by reason of the drainage works executed or to be executed by the drainage board within the district.

Provided that a drainage board in the exercise of any powers 20 conferred by this section—

(a.) shall not acquire any lands otherwise than by agreement, and

(b.) shall not execute any works within the limits of the district of any other drainage board without the consent of that board, 25 unless authorised by a provisional order made by the Commissioners and confirmed by Parliament; and the Commissioners before making any such order shall cause notice of their intention to make the same and of the subject matter thereof to be published in such manner as they think best adapted for the purpose of making 30 it known to all persons interested, and shall hear and consider any objections to such order which may be made to them in the prescribed manner within such time, being not less than *three weeks* from the first publication of such notice, as they may by such notice specify. After hearing the said objections (if any), 35 the Commissioners may, if they think proper, make such provisional order as aforesaid, and publish the same in the prescribed manner, and the provisions of this Act relating to the confirmation and validity of a provisional order constituting a drainage district shall apply in the case of a provisional order made in pursuance of his 40 section.

27. For the purpose of the purchase of any land, and any estate, interest, or easement therein, by a drainage board in pursuance of this Part of this Act, or of ascertaining the amount of compensation to be paid for any damage occasioned by the execution of any works for arterial drainage, or for determining any claim in respect of accommodation works, the Lands Clauses Consolidation (Ireland) Acts shall be incorporated with this Part of this Act so far as the same may be applicable to and are not inconsistent with or modified by the provisions of this Part of this Act, and with the exceptions and subject to the provisions following; that is to say,

(1.) There shall not be incorporated with this Part of this Act the following provisions and sections of the Lands Clauses Consolidation Act, 1845: A.D. 1843
Regulations
as to purchase of
lands.
8 & 9 Vict.
c. 18.

(a.) Section sixteen, whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force; and section seventeen, whereby it is provided that the certificate of the justices shall be evidence that the capital has been subscribed; and

(b.) The provisions with respect to the sale of superfluous land; and

(c.) The provisions with respect to access to the special Act:

(2.) There shall not be incorporated with this Part of this Act section four of the Railways Act (Ireland), 1851; but the Commissioners may, on the application of the drainage board, at any time after the constitution of the drainage district, appoint an arbitrator: 14 & 15 Vict.
c. 70.

(3.) Where the amount of any purchase money or compensation claimed in respect of any land required by the drainage board, or in respect of any damage occasioned by the exercise of any powers for the execution of the works for arterial drainage authorised to be executed by the drainage board, does not exceed fifty pounds, proceedings may be taken in a summary manner either by the drainage board or by any person claiming such purchase money or compensation for ascertaining the amount thereof to be paid by the drainage board, and the court before whom such proceedings are taken shall make such order as they may deem just for the payment of such amount by the drainage board to the person entitled thereto:

(4.) In the construction of this Part of this Act and the said incorporated Acts this Part of this Act and the order constituting the drainage district shall together constitute "the special Act," and the drainage board shall be "the promoters of the undertaking" or "the company."

[189.]

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A.D. 1885. In this section the term "the Lands Clauses Consolidation (Ireland) Acts" means the Lands Clauses Consolidation Act, 1845, as amended by the Lands Clauses Consolidation Acts Amendment Act, 1880; the Railways Act (Ireland), 1851; the Railways Act (Ireland), 1860; the Railways Act (Ireland), 1864; and the Railways 5 Traverse Act.

Sale of land
not required.

28. A drainage board may from time to time for such consideration as they may think proper, and with the consent of the Commissioners, sell and convey any of the lands which they may have acquired under this Part of this Act, and which may be no longer 10 required by such board:

Provided that the said drainage board, before they sell or dispose of any such land as aforesaid, shall first offer the same to the person to whose estate the same originally belonged, and then to the person whose estate adjoins thereto, and such land shall not be sold to any 15 other person at the same price as the persons entitled to such preference are willing to give, or at any lower price.

Enforcement
of execution
of works by
drainage
board.

29. During the execution of any works for arterial drainage the Commissioners may, if they think fit, upon the application of any person who is interested in the execution of such works, 20 appoint a duly qualified person to proceed to the drainage district in which such works are being executed, to inspect such works and report to the Commissioners respecting the same.

Upon receiving the said report, the Commissioners may make such order respecting the execution, alteration, or modification of 25 such works as they deem requisite, and may send such order to the drainage board, and the drainage board shall proceed with the execution, alteration, or modification of the works in accordance with the said order.

If any drainage board wilfully neglects or refuses to comply with 30 any such order as aforesaid, the Commissioners may apply by summary petition to the High Court, and thereupon such court may make such order thereon as seems just, and may issue any writ or writs of injunction to enforce any such order, and shall have power to adjudge by whom the costs of any such proceedings 35 shall be borne.

Expenses of Works.

Power to
drainage
board to
borrow.

30. A drainage board may from time to time borrow from any person willing to advance the same any sum required for defraying any of the expenses incurred or to be incurred by them in relation 40 to any works for arterial drainage which they are authorised to execute in pursuance of this Part of this Act.

The repayment of any sum so borrowed (including any interest thereon agreed to be paid from the date of the advance thereof, until the date of the enrolment of the apportionment of expenses award as hereafter in this Part of this Act mentioned,) shall be secured to the lender, in such manner as may be agreed between the parties, upon the moneys accruing to the drainage board in pursuance of the said award, together with interest at a rate not exceeding five per cent. per annum from the date of the said award.

A.D. 1883.

31. A drainage board may make application in writing to the Commissioners for a loan in aid of any works for arterial drainage which such board are authorised to execute, and such application shall contain such particulars as may be prescribed or required by the Commissioners.

Power to
apply to
Commis-
sioners for
loan.

The Commissioners may thereupon cause an inquiry to be made into all the circumstances of the case, and, if after such inquiry they think fit, they may, with the consent of the Treasury, make a loan to such drainage board in aid of the said works, and for defraying any expenses which the Commissioners may think properly connected therewith.

Any such loan shall be advanced by instalments, and a second or subsequent instalment shall not be advanced until the Commissioners are satisfied that the proceeding instalment has been duly applied to the works for which the loan was made.

32.—(L.) As soon as conveniently may be after any works for arterial drainage have been completed, or, if the Commissioners think fit, on the expiration of the period limited by the Commissioners for the completion of such works, though the same may not have been fully completed, the Commissioners shall make an award (in this Act referred to as "an apportionment of expenses award") specifying—

Award by
Commis-
sioners ap-
portioning
expenses.

(a.) The works executed or to be executed, and the lands drained or otherwise benefited by the said works; and

(b.) The reputed owners of such lands, and the portions thereof belonging to such owners respectively; and

(c.) The value of the said lands before the execution of the said works, and their value as increased by those works; and

(d.) The total amount of the expenses of and incidental to the said works, including all expenses incurred by the Commissioners and any arbitrators and other persons appointed or employed by them in relation to any proceedings connected with the said works; and

A.D. 1883.

- (e.) The proportions in which the several portions of the said lands shall be charged for the payment (together with interest from the date of the enrolment of the award as herein-after mentioned until the time of payment) of the said expenses, deducting therefrom the amount of any 5 sums payable to the Commissioners on account of any loan made by them; and
- (f.) The whole amount of the sum (after making such deduction as aforesaid) chargeable according to the said proportion on each portion of the said lands; and 10
- (g.) The rate of interest (not exceeding five per cent. per annum) to be paid on the amount so charged, and the mode of paying such amount and interest, whether at once or by instalments, and if by instalments the amounts and times for payment of such instalments; and 15
- (h.) The proportions in which the several portions of the said lands, and the owners thereof, shall be annually charged towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing, and keeping in repair the said works; and 20
- (i.) The rate (according to such proportions as last aforesaid) payable towards such costs and expenses as last aforesaid for the year next ensuing the date of the award; and
- (j.) All such other matters as the Commissioners may think necessary or proper. 25

(2.) In such award regard shall be had to the degree of benefit conferred or expected to be conferred by the said works on each portion of the said lands, and to the circumstances of each case; and the Commissioners may appropriate to the owner of any portion of the said lands having advanced money for the said works (if in 30 their opinion it is practicable so to do) a portion of the entire charge proportionate to the sum so advanced by such owner, and to declare such owner to be entitled, in respect of such portion, to a specified charge affecting only certain specified portions of the said lands, or to declare any two or more owners so advancing moneys 35 as aforesaid to be jointly entitled in such shares as the Commissioners may think fit to any distinct proportionate part of the sum or sums so to be charged on any distinct portion of the said lands.

Proceedings
with respect
to award.

33. With respect to the making of an apportionment of expenses award, the following proceedings shall take place; that is to say, 40.

- (1.) The Commissioners shall draw up or cause to be drawn up a draft award;

- (2.) The Commissioners shall within *one month* after the making of the draft award cause the same to be printed and sold publicly at a price not exceeding *two shillings and sixpence* for each copy, and deposit a copy with the clerk of the peace of every county in which any part of the said works have been executed, and all persons shall be entitled to inspect the same on payment of *sixpence* ;
- (3.) When the draft award has been so deposited, the Commissioners shall cause notice thereof to be inserted once in each week for *three* successive weeks in some newspaper or newspapers circulating in the drainage district ; and the Commissioners shall by such notice require all persons who may desire to lodge objections to the said award to lodge the same at such place and before such time as may be specified in the said notice, and shall also in the said notice state that they will proceed to hear any objections which may be lodged in the prescribed manner, and to settle the award, at such time and place in or near such district as may be appointed in the said notice, such time not to be sooner than *one month* after the first publication of such notice ;
- (4.) The Commissioners or any one of them shall attend at the appointed time and place, and examine into any objection lodged against the draft award, and shall bear all such proper evidence as is offered to them or him in respect thereof, and shall make such alterations (if any) in the draft award as they or he think fit, and may adjourn such attendance from time to time ; and the Commissioners shall thereupon finally settle and seal the award ;
- (5.) The award, as finally settled by the Commissioners, shall be enrolled in the Rolls Office of the High Court, and when so finally settled and enrolled shall be binding and conclusive on all parties, and a copy thereof certified by the proper officer of the Rolls Office shall be evidence that it was duly made, and that all the requisitions of the law in relation thereto were complied with ; and the drainage board shall within *one month* after the award is finally settled cause the same to be printed and kept for public sale at a price not exceeding *two shillings and sixpence* for each copy.

A.D. 1882.

34. The several sums of money specified in an apportionment of expenses award as chargeable on the several portions of the lands therein specified, together with interest at such rate, not exceeding

Charge on
lands of
apportioned
expenses.

A.D. 1888.

five per cent. per annum, as may have been fixed by the said award, shall, from the date of the enrolment of the said award, be charged on the said portions respectively, in accordance with the terms of the said award; and the owner for the time being of any such portion shall be the person liable to pay any amount for the time 5 being due in respect of the sum so charged upon such portion.

The said charges shall have priority over all existing and future estates, interests, and incumbrances, with the exception of quit-rents and other charges incident to the tenure, rentcharges in lieu of tithes, and any charges created under any Act authorising any 10 advance of public money, or under any Act creating charges in respect of improvements on lands, and passed before this Act, with the exception also (in cases where the lands are subject to a fee-farm rent or held under a lease reserving rent) of such fee-farm rent or rent reserved as aforesaid. 15

Provision in
case of non-
payment of
charges.

35. If any sum of money charged in pursuance of an apportionment of expenses award, or any instalment thereof, or any interest thereon, remains unpaid for *three months* after the time when the same became due according to the terms of the award, the drainage board may proceed for the recovery thereof by all or any of the 20 methods following; that is to say,

- (1.) The drainage board, or any person authorised by them, may enter upon the land charged with the payment of the amount so in arrear, or any part of such land, and may receive and take the rents and profits of such land (subject to any prior 25 incumbrance), until thereby or otherwise the amount so in arrear (together with all costs and expenses attending or occasioned by such entry and receipt of the rents and profits of such land) is fully paid and satisfied;
- (2.) Upon the application by petition of the drainage board the 30 High Court may appoint a receiver of the rents and profits of such land, and the said receiver shall have full power to receive the same, and apply the same, after deduction of the necessary expenses of the application to the said court and of the order and proceedings thereon, and without prejudice to such prior 35 incumbrances (if any) or any remedy for the recovery of the same, in payment of the amount so in arrear as aforesaid, until the same is fully paid;
- (3.) The drainage board, if they think fit, may raise the amount so in arrear as aforesaid, and all costs and expenses incidental 40 to the raising of such amount, by mortgage of such land or a competent part thereof; and every such mortgage, and every receipt given for the consideration money, shall be valid and

effectual to all intents and purposes whatsoever; and the mortgagee of any such mortgage shall not be bound to see to the application of the mortgage money, or to inquire whether the mortgage made by the drainage board and purporting to be made under or in pursuance of this Part of this Act is in fact by this Part of this Act authorised to be made by them.

A.D. 1863.

36. Where the Commissioners have made a loan to a drainage board in pursuance of this Part of this Act they may on the completion of the authorised works within the period limited by them, or in case the works are not completed within such period, then at such time as the Commissioners think proper, make an award (in this Act referred to as "a repayment of public advances award") specifying,

Award by
Commissioners
for loan
advanced by
them.

(a.) The works for which such loan was made, and the lands drained or otherwise benefited by such works; and

(b.) The reputed owners of the said lands and the portions thereof belonging to such owners respectively; and

(c.) The amount of the said loan, including therein interest on every advance in respect thereof, at the rate of four per cent. per annum from the date of such advance until the commencement of the term for which the annuity for the repayment of the said loan is payable as herein-after mentioned, and including also any sums otherwise payable to the Commissioners in respect of expenses incurred in connexion with the constitution of the drainage district, or the execution of the said works, or the making of the said loan; and

(d.) The proportions in which the said lands and the owners thereof are to be charged with the repayment of the said amount, and the gross sum to be charged on the land of each owner in respect thereof; and

(e.) All such other matters and things as the Commissioners may think necessary or proper.

In such award regard shall be had to the degree of benefit conferred or expected to be conferred upon each portion of the said lands by the said works, and to the circumstances of the case.

The same proceedings shall take place with respect to the making of a repayment of public advances award and the enrolment thereof as are herein-before directed in the case of an apportionment of expenses award, and from the date of such enrolment the several lands specified in that behalf in the award shall respectively be charged, in manner herein-after provided, with an annuity for the payment with interest of the sums specified in the said award to be charged on such lands respectively.

A.D. 1883.

Provided that where the moneys expended on any works for arterial drainage consist entirely of moneys lent for the purpose of such works by the Commissioners, the Commissioners shall not be obliged to make two separate awards, but may make a combined award, combining the several particulars required to be specified in the apportionment of expenses award and the repayment of public advances award respectively, and the same proceedings as aforesaid shall take place with respect to the making of such combined award and the enrolment thereof; and such combined award when enrolled shall be of the same effect with respect to the matters therein contained as an apportionment of expenses award and a repayment of public advances award.

Charge on
lands for
repayment
of loan made
by Com-
missioners.

37.—(1.) Any land charged for the payment with interest of any sum in pursuance of a repayment of public advances award shall be charged with the payment to the Commissioners of an annuity of *six and a half* per cent. on the sum so charged on such land; and such annuity shall be payable for the term of *twenty-two* years, commencing on the *fifth of April* or *tenth of October*, whichever of those days next preceded the enrolment of the award:

Provided that the Commissioners, if they think fit, may, with the consent of the Treasury, substitute an annuity of *five* per cent. for the said annuity of *six and a half* per cent., and in that case *thirty-five* years shall be substituted for *twenty-two* years as the term during which such annuity shall be payable.

(2.) The annuity shall be paid by equal half-yearly payments on the *fifth of April* and *tenth of October* in each year, and the first of such payments shall be made on whichever of the said days next succeeds the day on which the said term of *twenty-two* years or *thirty-five* years (as the case may be) commences.

(3.) The said annuity shall have priority over all existing and future estates, interests, and incumbrances, with the exception of quitrents and other charges incident to the tenure, rentcharges in lieu of tithes, and any charges created under any Act authorising any advance of public money, or under any Act creating charges in respect of improvements on lands, and passed before this Act, with the exception also (in cases where the lands are subject to a fee-farm rent or held under a lease reserving rent) of such fee-farm rent or rent reserved as aforesaid.

(4.) The said annuity or any part thereof may at any time, at the option of the person for the time being liable to pay the same, be redeemed according to a schedule to be prepared in the prescribed manner.

(5.) The owner for the time being of any land charged with such annuity shall be the person liable to pay the same. A.D. 1892.

(6.) The occupier of any land charged as aforesaid, not being the owner thereof, may pay any sum due upon such land on account of the annuity, and shall be authorised to deduct such sum from the rent payable by him to his immediate landlord, and the immediate landlord of any person making such deduction from his rent may, if he is not such owner as aforesaid, make the same deduction from the rent payable by him in respect of the same land: Provided that nothing herein contained shall authorise such deduction to be made in respect of any costs or expenses incurred in consequence of the non-payment of an annuity.

38. Every annuity payable to the Commissioners in pursuance of this Part of this Act shall be recoverable by the Commissioners in manner in which rentcharges in lieu of tithes are recoverable in Ireland; and a certificate under the common seal of the Commissioners shall be evidence that the amounts of any annuity or arrears of annuity stated therein to be due under this Part of this Act from any person named therein is due to the Commissioners from such person. Recovery of annuity payable to Commissioners.

39. The Commissioners, on the application of the owner (not being the occupier) of any land charged with the payment of any sum of money or annuity under an apportionment of expenses award or a repayment of public advances award, shall by order determine the annual sum (if any) to be paid by the occupier of such land by reason of the increased value thereof arising from the works for arterial drainage in respect of which such award was made; and the Commissioners in fixing the said annual sum shall have regard to the nature of the said works, and the benefits arising therefrom to the said occupier, and generally to the justice of the case; and any person to whom the said annual sum is payable, if he is not such owner as aforesaid, shall pay a like sum to his immediate landlord; and any such sum shall be deemed to be part of the rent payable by such occupier or person in respect of such land, and shall be paid and recoverable accordingly: Determination by Commissioners of amount payable by occupier of land improved.

Provided that—

(1.) Before making an order for the payment of any such annual sum, the Commissioners shall give the prescribed notice to the occupier of the land for the purpose of enabling such occupier to appear before them and make any reasonable objection to such order, and shall duly consider any such objection made to them at the time appointed for that purpose by the said notice; and

[189.]

D

A.D. 1883.

44 & 45 Vict.
c. 49.Charge
not to pre-
clude trustees
from invest-
ing money in
land charged.Provision as
to expenses
of works
executed
outside
district.

- (2.) The Commissioners shall not make an order for the payment of any such annual sum in the case of any land in respect of which a statutory term within the meaning of the Land Law (Ireland) Act, 1881, is subsisting unless they are satisfied that the increased value of such land arising or anticipated from the said works was not taken into account in the determination of the rent payable in respect of such land during the said statutory term; and
- (3.) An annual sum payable as aforesaid shall not be deemed an increase of rent for the purposes of section four of the Land Law (Ireland) Act, 1881.

40. A sum of money or annuity charged on any land, in pursuance of an apportionment of expenses award, or a repayment of public advances award, shall not be deemed such an encumbrance as precludes a trustee of money from investing the same in a purchase or upon a mortgage of the land so charged, unless the terms of such trust expressly provide that the trust money shall not be so invested; and any trust moneys already invested, lent, or charged on any land which may become charged with such annuity may, if the trustee think fit, be continued on the security of the said land, notwithstanding the imposition of such annuity and a guardian, committee, trustee, executor, or administrator shall not be obliged to signify an objection to any application or award affecting the said land made in pursuance of this Part of this Act, or be in anywise responsible for the consequence of such application or award, or the charge made in pursuance thereof.

41. For the purpose of providing all expenses connected with the execution outside the limits of a drainage district of any works certified by the Commissioners as in this Part of this Act mentioned to be in their opinion necessary for preventing injury to lands outside the limits of such district by reason of any works for arterial drainage executed or to be executed within such district, the Commissioners shall, upon the completion of the works so certified as aforesaid, or from time to time whenever they think fit, make an order charging the amount mentioned in such order upon the several lands in the said district; and the provisions of this Part of this Act relating to a charging order of the Commissioners for the payment of the expenses of any works of repair and maintenance executed by them in pursuance of this Part of this Act shall apply, so far as the same may be applicable, in like manner as if an order made in pursuance of this section were such charging order as aforesaid.

42. All moneys charged by virtue of this Part of this Act upon any lands shall be held to be chargeable upon such other lands, being part of the same denomination or townland and belonging to the same owner or settled to the like uses, as may by the award of the Commissioners be made chargeable therewith, subject as to such last-mentioned lands to the full amount of all incumbrances affecting the same at the date of such award; and, subject as aforesaid, the said moneys shall be deemed to be charged upon such last-mentioned lands in the same priority and in like manner in all respects as the said moneys are chargeable upon the lands actually drained or otherwise benefited.

A.D. 1853.
Charges to extend to the entire denomination of land.

43. A drainage board may from time to time, for such consideration as they may think proper, and with the consent of the Commissioners signified under their seal, release any part of any land from the whole or any part of any charge payable to such board under this Part of this Act; and such release shall not affect the rights or remedies of such board as against the residue of the land, part of which has been so released, or in respect of the residue of any such charge.

Release of a part of land charged.

44. In case the owner of any mill or factory consents that any dam, weir, or watercourse, or other work or obstruction connected with such mill or factory be, for the purpose of any works for arterial drainage, altered or rebuilt, or that such mill or factory obtain by such works any increased water power, the Commissioners may fix the amount of contribution to be paid by such owner for such alteration, rebuilding, or increase of water power, towards the repayment of the costs and expenses of the said works, and the rate to be paid in future for such increased water power.

Commissioners to fix contribution payable by mill owner.

The drainage board shall have the like powers to recover the contribution and rate so fixed as are given to them by this Part of this Act for the recovery of any rates or charges to be imposed by them under this Part of this Act.

Maintenance of Works.

45. For the purpose of effectually maintaining and keeping in repair all works for arterial drainage executed in any drainage district in pursuance of this Part of this Act, and for the payment of all necessary expenses of and incidental to the maintenance and keeping in repair of such works, and of all expenses properly incurred from time to time under this Part of this Act by the drainage board after the making of an apportionment of expenses

Annual rate for maintenance of works.

A.D. 1863. or combined award with respect to such works, the drainage board of such district shall once in every year, at a meeting of the board, fix the sum to be raised during the ensuing year for the payment of the said expenses, and shall assess the owners of lands within the said district towards the payment of the said sum according to the proportions specified in that behalf in the said award; the several amounts so assessed shall be charged on such lands respectively, and shall be paid by the owners for the time being of such lands respectively, and such charges shall have the same priority as is herein-before given to charges on lands under an apportionment of 10 expenses award.

The drainage board shall have the same powers for the recovery of any sum charged under this section as are herein-before given to them for the recovery of a sum charged under an apportionment of expenses award; and any sum charged under this section shall also be recoverable by Civil Bill, brought by the drainage board against the person or persons for the time being liable to pay the same.

Power to
owner of
land to
enforce
maintenance
of works.

46. Where any land is or has been subject to any charge or annuity in respect of any works for arterial drainage or to any rates or assessments for the maintenance of any such works (whether or not such works were executed in pursuance of this Part of this Act) and the same land is injuriously affected owing to the insufficient maintenance of the said works, the owner of such land (hereinafter referred to as "the complainant") may serve a notice, signed by himself or his authorised agent, upon the drainage board or trustees of the drainage district in which such land is situate, setting forth the particular defects complained of in the maintenance of the said works, and the particular land alleged to be injuriously affected by such insufficient maintenance, and calling upon the drainage board or trustees forthwith to cause the said defects to be remedied.

If the drainage board or trustees neglect for the space of *fourteen days* after the service of the said notice to remedy such defects, the following proceedings may be taken; that is to say,

- (1.) The complainant may make application to the Commissioners by memorial in writing setting forth the particulars of his complaint, and all such matters relating thereto as may be prescribed or required by the Commissioners:
- (2.) The Commissioners shall consider the memorial, and may, if they think fit, appoint an engineer or other competent person to inspect and report upon the subject thereof, and if necessary

to furnish a specification and estimate of the probable cost of the necessary repair of the works. The Commissioners shall

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publish the report or the purport thereof or furnish a copy of the same or of the purport thereof to the drainage board or trustees, and may give notice to the drainage board or trustees calling upon them to show cause, within a period to be appointed in the notice (not being less than *fourteen days* after the service thereof), why the provisions of this Part of this Act should not be put in force with respect to the matters complained of:

(3.) The Commissioners shall take into consideration all such matters (if any) as are submitted to them by the drainage board or trustees within the period appointed as aforesaid, and may make such inquiries as they think proper, and thereupon they may, if they think fit, make an order (herein-after referred to as a "maintenance order") declaring that the works of maintenance and repair therein specified ought to be forthwith carried out in pursuance of this Part of this Act; and thereupon the Commissioners may proceed to carry out such works of repair and maintenance as they may deem necessary:

(4.) For the purpose of carrying out the said works of repair and maintenance, the Commissioners shall have all the powers exercisable by the drainage board or trustees.

Such works of repair and maintenance may extend to and include the removal, reconstruction, or alteration of any existing bridge (not being a county bridge), culvert, or archway, which in the opinion of the Commissioners may be insufficient for the discharge of the water in the district, thereby causing injury to any lands within such district.

47. The Commissioners may from time to time cause inspection to be made by some engineer or other competent person of any works executed for arterial drainage (whether or not such works were executed in pursuance of this Part of this Act), and if it appears from the report of the person so appointed that any such works have not been maintained in good order and repair, so as in the opinion of the Commissioners to be fit and proper for their intended purposes, or that any sudden breach or damage has occurred to any embankment or other work for arterial drainage, the Commissioners may cause a notice to be served on the drainage board or trustees of the drainage district, calling upon them to execute such works of repair and maintenance as in the opinion of the Commissioners

Power of
Commissioners to
enforce
maintenance
of works.

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the circumstances of the case render necessary, (the nature of which works shall be stated in such notice) within such period as is therein mentioned, and informing them that in default thereof such works will be executed by the Commissioners pursuant to the provisions of this Part of this Act.

In case such works are not executed in accordance with the terms of such notice, the Commissioners, with the sanction of the Treasury, may execute all such works of repair and maintenance as they may consider necessary, and for the purposes aforesaid the Commissioners shall possess all the powers exercisable by the drainage board or trustees.

Charging
order for
expenses of
repair exe-
cuted by
Commis-
sioners.

48. The expenses of and incidental to any works of repair and maintenance executed by the Commissioners in pursuance of this Part of this Act, including all costs and charges properly incurred by any complainant or the Commissioners in and about the obtaining and making a maintenance order, or preliminary or consequential thereto, or by the Commissioners in and about any inspection preliminary to the execution of such works, shall be charged in the manner following; that is to say,

(1.) The Commissioners, upon completion of the works, or of any part thereof, may make an order, to be called a "charging order," specifying therein—

(a.) The amount of such expenses, as aforesaid, as are to be charged by such order; and

(b.) The lands to be charged with the payment of the said amount, and the owners of such lands; and

(c.) The proportions of such amount which are to be paid by the several owners, and charged upon their lands respectively; and

(d.) The time or times when such amount is to be paid; and

(e.) Such other matters (if any) as the Commissioners think fit;

and the Commissioners, in making such order, shall have regard to the award made in the district for which such order is made, so far as circumstances may admit:

(2.) In case the amount of money mentioned in a charging order is found insufficient, the Commissioners, by any further order, may from time to time charge any further sum in manner aforesaid for the purpose of the said works and the expenses incidental thereto; and thereupon such further sum shall be deemed and taken to be part of the amount charged by the original order, and rated and recovered accordingly:

(3.) The Commissioners may, if they deem it expedient, out of any moneys under their control and applicable to loans, and with the sanction of the Treasury, advance the amount mentioned in any charging order or orders to be expended on such works of repair and maintenance, or any part of such amount: A.D. 1883.

(4.) The amount specified in a charging order, with interest on any sum so advanced at such rate not exceeding *five* per cent. per annum from the date of such advance until repayment thereof as the Commissioners with the consent of the Treasury think fit, shall, from the date of the order, be charged upon the several lands specified in the order, and the owners of such lands, in the proportions in that behalf specified in the order; and such lands shall be so charged in like manner and in the same priority in which lands may be charged with rates imposed by a drainage board for the maintenance of works of arterial drainage; and the said owners and their lands respectively shall be assessed, rated, and taxed in the proportions specified in the order:

(5.) In addition to the sums payable under any charging order, and such interest as aforesaid, there shall be paid to the Commissioners *one shilling in the pound* on the total amount of the same as and for receiver's fees thereon, to be charged, payable, and recoverable, in like manner as such sums and interest as aforesaid: Provided that a person, or the land of such person, shall not be liable to such additional charge if such person pays the amount of every such sum and the interest thereon payable by him within *thirty-one* days next after the time appointed by the order for the payment thereof:

(6.) The Commissioners, for the purpose of assessing any sums payable under a charging order, with any such interest as aforesaid, and for the recovery of the same in accordance with the terms of the order, shall possess the same powers and remedies as are possessed by a drainage board for the purpose of assessing and recovering a sum of money required by them for the maintenance of works for arterial drainage, including a right to recover any such sums by civil bill from the person or persons for the time being liable to pay the same.

49. The Commissioners may, if they think it necessary, by warrant appoint a person to be the collector of any sums payable in pursuance of a charging order.

Power to
Commissioners to
appoint a
collector.

A.D. 1883.

In case any person from whom any such sum is recoverable does not pay the same to the collector on demand, the collector shall serve on such person notice in writing, subscribed with the name and place of abode of such collector, requiring payment of such sum within *six days* from the date of such notice, and expressing that within *six days* the same may be paid to the collector at his house or office; and if the same is not paid within such period of *six days*, then it shall be lawful for the said collector to levy the same by distress and sale of the goods of such person wherever such goods may be found; and the proceeds of such distress and sale shall be applied in payment of the expenses of such distress and sale, and in the next place in payment of the said sum, and the residue shall be paid to the owner of such goods.

Supplemental Provisions.

Provision as
to urban
sanitary
district
included in
drainage
district.

50. An urban sanitary district within the meaning of the Public Health (Ireland) Act, 1878, may be included in a drainage district constituted in pursuance of this Part of this Act; and for the purpose of applying the provisions of this Part of this Act in the case of any such urban sanitary district, the following provisions shall have effect, that is to say:—

- (1.) The urban sanitary authority shall be deemed to be the owner of the land comprising their district :
- (2.) The said authority shall have such number of votes in the election of members of the drainage board as may be specified in the provisional order constituting the drainage district, and such number shall be fixed by the Commissioners according to the estimated benefit to be derived by the said urban sanitary district from the proposed works :
- (3.) The sums from time to time payable by the said authority under an apportionment of expenses award, or a repayment of public advances award, or a charging order, or otherwise in pursuance of this Part of this Act, shall be paid as if such sums were expenses incurred or payable by the said authority in the execution of the Public Health (Ireland) Act, 1878, for sanitary purposes.

41 & 42 Vict.
c. 52.

Contracts by
drainage
board for
pumping
works.

51. A drainage board in any district intended to be drained by means of pumping may from time to time contract with any person for the erection, maintenance, and repair of any pumping works and machinery necessary for that purpose, and may apply any

funds under their control in discharge of the liabilities incurred by virtue of any such contract. A.D. 1862.

Any company or public body incorporated for the purpose of supplying water to any town or district may enter into any such contract as aforesaid with any drainage board, and may enter into the terms of such contract.

52. A drainage board may, if they deem fit, for the prevention of dispute, and for the due regulation of the water in any water-course improved or made in pursuance of this Part of this Act, appoint a proper person for the regulation, opening, and closing of any floodgates, sluices, stopgates, or stops of any weir, dam, or other work connected with any mill or factory which may have been in any respect interfered with by the said board, or of any weir, dam, or other work which may be under the care or control of the said board, or vested in or erected by them under this Part of this Act; and the person so appointed shall have full power to regulate, open, and close the same for the purposes aforesaid, subject to the control, orders, and directions of the said board; and all expenses of maintaining the same and of remunerating the said person, shall be deemed to be part of the expenses of the maintenance of the works executed by the said board.

Drainage board to provide for regulation of floodgates, &c.

53. A drainage board, or any person authorised by them, after three days previous notice in writing given to the occupier, may search for, dig, take, and carry away materials out of any land for the purpose of any works which they are authorised to execute, making such compensation for the surface damage done to the owners, lessees, or occupiers of such lands, according to their respective interests therein, as may be agreed on; but in all cases where a drainage board take materials from an open quarry bona fide demised to any person, with liberty to raise, sell, and dispose of the materials therein, the value of such materials shall be paid for by the said board as may be agreed on; and in case of dispute concerning the amount of such compensation, or the value of such materials, proceedings may be taken in a summary manner for ascertaining such amount or value, and the order of the court before whom such proceedings are taken shall be final; and service of such summons on the engineer of the said board in charge of the works in the district for the purpose of which such materials are taken shall be sufficient:

Power to dig for materials.

Provided that such proceedings shall not be taken until the whole extent of the damage to be done by the said board, or the whole of the materials to be taken by them, has been ascertained.

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Drainage
board to fill
up or fence
off pits and
holes.

54. If, by reason of the searching for, digging, or getting any materials as aforesaid, any pit or hole is made in any common or other land wherein such materials are found, the drainage board shall forthwith, if necessary for the security of the public, or if the owner or occupier so requires, cause the same to be sufficiently 5 fenced off during such time as the said pit or hole is used, and shall, within six days after having dug up sufficient materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down, or fenced off, and so continued; and if the same is likely to be further useful, the said board shall cause the 10 same to be sufficiently secured by posts and rails, or other fences, so as to prevent accidents to cattle or persons.

Removal and
rebuilding
of bridges
under public
roads.

55. If the Commissioners are of opinion that, for the purpose of carrying out any works for arterial drainage, it is necessary to rebuild or alter any existing bridge, culvert, or archway, for the 15 discharge of water under any public road, they may give a certificate in writing to the drainage board to that effect; and thereupon the drainage board, to such extent as they may be authorised by the said certificate, may take down and remove or alter such bridge, culvert, or archway, and shall (when in the opinion of the Com- 20 missioners necessary) construct a temporary bridge, culvert, or archway in the place of that so to be taken down and removed, or altered, and support and maintain the same until the completion of the works necessary for the restoration to public use of such bridge, culvert, or archway. 25

Where an existing bridge, culvert, or archway is taken down and removed, the drainage board shall construct a new bridge, culvert, or archway, with the necessary roads of approach thereto, according to such plan, specification, and estimate as may be approved by the Commissioners. 30

The expense of any work executed in pursuance of this section shall (save as hereafter in this section mentioned) form part of the costs of the works for arterial drainage executed by the said drainage board.

Where the Commissioners are of opinion— 35

(1.) That the bridge, culvert, or archway so taken down and removed or altered was so constructed as to be an impediment to the natural discharge of the water, having reference to the watercourse in its condition before the execution of the said works for arterial drainage; or 40

(2.) That public advantage, by improved means of communication or otherwise, is or will be derived from the rebuilding or alteration of the said bridge, culvert, or archway, A.D. 1883.

the Commissioners may issue a certificate under their seal declaring the amount which the county within which such works are situate ought to contribute towards the expenses so incurred by the drainage board; and upon such amount, or from time to time any part thereof, being certified by the Commissioners to the secretary of the grand jury of such county to be due, the same proceedings shall be taken for the payment and recovery of such amount, or such part thereof, as if it were a sum duly certified to such secretary by the Commissioners to be due to the consolidated fund in respect of a loan made by the Commissioners on the security of a presentment of the said grand jury :

Provided that, where any bridge, culvert, or archway so rebuilt or altered is over any watercourse forming a boundary between two counties, the amount specified in any such certificate as aforesaid shall be payable by the said counties in equal moieties, and upon a moiety of such amount, or from time to time any part of such moiety, being so certified as aforesaid by the Commissioners to the secretary of the grand jury of the county by which such moiety is payable, the same proceedings as aforesaid shall be taken for the payment and recovery of the said moiety or part thereof.

56. Any person authorised by virtue of an Act of Parliament to navigate on or use any river, canal, dock, harbour, or basin, or to demand any tolls or dues in respect of the navigation on such river or canal, or the use of such dock, harbour, or basin, may, at his own expense, and on substituting other sewers, drains, culverts, and pipes equally effectual, and certified as such by the surveyor of the drainage board, take up, divert, or alter the level of sewers, drains, culverts, and pipes constructed by the drainage board, and passing under or interfering with or with the improvement or alteration of such river, canal, dock, harbour, or basin, or the towing-path thereof and do all such matters and things as may be necessary for carrying into effect such taking up, diversion, or alteration.

57. Where, in the exercise of any powers given by this Part of this Act, any watercourse forming a boundary line between two or more counties, baronies, unions, parishes, or other areas defined by law, is in any way altered so as to affect its character as such boundary line, the drainage board, under whose authority the

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Power to
owners of
canals, &c. to
alter works.

Provision in
case of
alteration of
local bound-
ary.

A.D. 1888. alteration is made, shall forthwith report the same to the Lord Lieutenant in Council; and thereupon

- (1.) If the Lord Lieutenant in Council is satisfied that a new boundary line may be adopted with convenience, he shall by notice to be published in the Dublin Gazette declare that 5 the watercourse as altered shall either wholly or in part be substituted for the former boundary line; and the limits of the areas of which the watercourse when unaltered was the boundary shall from the date mentioned in such notice be deemed to be varied accordingly; and 10
- (2.) If the Lord Lieutenant in Council is of opinion that a new boundary cannot be adopted with convenience, he shall require the drainage board to set out a boundary upon the line of the watercourse as it existed before its alteration in such manner as he may direct and approve. 15

A copy of the Dublin Gazette containing a notice as above mentioned in respect of any alteration of boundary made in pursuance of this section shall be admitted as evidence in all courts of justice of the fact of such alteration having been made.

Penalty for
creating ob-
structions or
nuisances.

58. It shall not be lawful to cause or permit any obstruction in 20 or otherwise injuriously to affect any watercourse in respect of which any works have been commenced or executed by a drainage board, or, without the consent of the drainage board, to cause any filthy or unwholesome water, or washings of manufactories or mines, or other foul or poisonous liquid, to flow into any such watercourse. 25

Any person offending against this section shall incur a penalty not exceeding *five pounds*, and a further penalty of *forty shillings* for every day during which the offence is continued, to be recovered in a summary manner.

Nothing in this section shall prevent any person having a legal 30 right to make any such obstruction or do any such injury, or to cause any such water, washing, or liquid to flow as aforesaid, from exercising such right; and nothing in this section shall subject any person exercising any legal right vested in him to any penalty.

Penalty for
obstructing
drainage
board or
injuring
works.

59. Any person who wilfully obstructs any person acting under 35 the authority of a drainage board in the lawful exercise of any powers vested in such board under this Part of this Act, and any person who in any way injures or obstructs or permits to be injured or obstructed any work constructed, maintained, or repaired in pursuance of this Part of this Act, shall for each offence be liable to a 40

penalty not exceeding *ten pounds*, to be recovered in a summary manner. A.D. 1883.

Where the banks of any watercourse made, opened, widened, deepened, or improved, in pursuance of this Part of this Act, are broken down or damaged by cattle grazing or being upon any lands abutting upon such watercourse, by reason whereof such watercourse is injured or obstructed, the person or persons occupying the lands at the time of such damage shall be deemed to have committed an offence under this section.

Any penalty recovered under this section shall be paid to the drainage board.

60. All costs, charges, and expenses incurred by a drainage board in instituting or defending any legal proceedings in their character of a drainage board may be defrayed out of the rates leviable by them, and a member of a drainage board shall not be personally liable in respect of any such costs, charges, or expenses. Costs of legal proceedings by drainage board.

61. In any action against any person for any act done in pursuance or execution or intended execution of this Part of this Act, or in respect of any alleged neglect or default in the execution of this Part of this Act, tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. Protection of persons acting under this part of Act.

If the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment; but this provision shall not affect costs on any injunction in the action.

62. For the purpose of the scale set forth in the first schedule to this Act, and for the purpose of ascertaining the proportion of assenting or dissenting owners under any of the provisions of this Part of this Act, and for the purpose of an award by the Commissioners under this Part of this Act, the annual value of any lands shall be determined by the schedule accompanying the petition for the formation of the drainage district, as signed by the inspector sent by the Commissioners; and such schedule as signed by the said inspector shall be binding on all persons concerned. Annual value of land how ascertained.

A.D. 1883.

Saving of
existing
habilities to
repair.

63. The liability of any person whomsoever to defray or contribute towards the expense of making, completing, altering, repairing, or maintaining any sewer or drain or any walls or works for protecting any land against the force or encroachments of the sea or of any river, or doing any other work within the jurisdiction of a drainage board, shall continue, and the same may be enforced as if this Act had not passed.

Saving of
rights of
canal owners
and others.

64. Nothing in this Part of this Act shall authorise any drainage board—

- (1.) To interfere with any sewers or other works made before or after the passing of this Act and used for the purpose of draining, preserving, irrigating, or improving land under any public, local, or private Act of Parliament, so as injuriously to affect the same, or
- (2.) To interfere with any lake, river, canal, dock, harbour, lock, reservoir, or basin, or the supply of water thereto, so as injuriously to affect the navigation thereon, or the use or maintenance thereof, or to interfere with any towing path so as to interrupt the traffic thereof, in any case where any person by virtue of an Act of Parliament or otherwise is entitled to navigate on or use such lake, river, canal, dock, harbour, lock, reservoir, or basin, or by virtue of an Act of Parliament is entitled to the receipt of any tolls or other dues in respect of the navigation on or use of the same, or
- (3.) To interfere with the works or supply of water of any person supplying water to any town or place, so as injuriously to affect the same, or
- (4.) To execute any works in, through, or under any wharfs, quays, docks, harbours, or basins, belonging to the proprietor of any inland navigation constituted by Act of Parliament or otherwise, or for the use of which he is entitled by virtue of any Act of Parliament or otherwise to demand any tolls or dues,

without the consent of such person or proprietor as herein-before respectively mentioned, such consent to be expressed in writing, in the case of individuals under their hands, in the case of a corporation under their common seal, and in the case of a company, undertakers, commissioners, conservators, or trustees, under the hand of their clerk, or other duly authorised officer or agent.

Nothing in this Part of this Act shall authorise any drainage board to divert any river in such manner as to injure or to diminish

the supply of water to any harbour without the consent of the conservators or any authority having the management of such harbour. A.D. 1883.

65. The provisions of Part I. of this Act relating to the restriction
5 on the power of executing works and making loans in certain cases
without the previous consent of the Board of Trade, or of the
Commissioners of Her Majesty's Woods, Forests, and Land Revenues,
and the cases in which such consent must be obtained before the
execution of any works and the granting of any loan, and the mode
10 of signifying such consent, shall be incorporated with this Part of
this Act. Incorporation of certain provisions of Part I. of Act.
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A.D. 1882.

PART III.

DEFINITIONS AND REPEAL.

Definition of
improvement
of land.

66. A loan or work for the improvement of land shall be deemed to be a loan or work for the following purposes or any of them ; that is to say, 5

- (1.) The drainage of any lands by any such means as the Commissioners approve :
- (2.) Subsoiling, trenching, or otherwise deepening and improving the soil :
- (3.) Irrigation or warping of land : 10
- (4.) Embanking lands from the sea or tidal waters or rivers :
- (5.) Enclosing or fencing any land, or improving the fences, drains, streams, or watercourses of any land :
- (6.) The reclamation of waste or other land, or clearing lands of rocks and stones : 15
- (7.) Making farm roads, erecting farm buildings, and building or enlarging farm dwelling houses in connexion with farm offices and buildings :
- (8.) The erection and improvement of dwelling-houses for labourers : 20
- (9.) Planting for shelter :
- (10.) The erection of buildings suitable to scutch mills for flax, and the formation of watercourses and weirs necessary for providing water power for the same ;

Provided that nothing in this section shall extend to loans for the erection or supplying of any water-wheel or any machinery for any such scutch mill for flax : 25

- (11.) The execution of all such works as the Commissioners may consider necessary for carrying into effect any of the purposes above mentioned, or for deriving the full benefit thereof. 30

Definition of
arterial
drainage.

67. The expression " works for arterial drainage "—

- (1.) means any works for the following purposes or any of them ; that is to say,
 - (a.) cleansing, repairing, and otherwise placing and maintaining in a due state of efficiency any watercourse or outfall for water, or any wall, bank, dam, or other defence against water, and 35

(b.) deepening, widening, straightening, and otherwise improving any watercourse or outfall for water, and removing any milldam, or other dam, weir, or other obstruction to any watercourse or outfall for water, and raising, widening, and otherwise altering any wall, bank, milldam, or other dam or other defence against water, and

(c.) making any new watercourse or outfall for water, and erecting any new bank, dam, or defence against water, and filling up or reopening any disused watercourse, and

(2.) includes the erection of any machinery and the doing of any acts and things necessary or proper for effecting the above-mentioned purposes or any of them, or for the purpose of any works proper for the drainage of land by pumping.

68.—(1.) Subject as in this section mentioned, the following persons shall be deemed to be owners of land for the purpose of the provisions of this Act relating to a loan or work for the improvement of land, and relating to the formation of a drainage district, and the constitution of a drainage board, and the maintenance of any works for arterial drainage, and the expenses, charges, and rates of and in relation to such works and the maintenance thereof; that is to say,

(a.) Any person entitled for his own benefit, for an estate in fee, to the possession or receipt of the rents and profits of any freehold or copyhold land, whether such land is or is not subject to incumbrances:

(b.) Any person absolutely entitled in possession, at law or in equity, for his own benefit to a beneficial lease of land for any term of years absolute of which not less than twenty-five years are unexpired, or to a lease not being a beneficial lease, for any term of years absolute, of which not less than forty years are unexpired, whether such land is or is not subject to incumbrances; but a lease shall not be deemed to be a beneficial lease if the rent reserved thereon exceeds one-third part of the full annual value of the land demised by such lease:

(c.) Any person entitled under any existing or future settlement, at law or in equity, for his own benefit, and either absolutely or for the term of his own life or the life of any other person, to the possession or receipt of the rents and profits of land of any tenure, whether subject or not to incumbrances, in which the estate for the time being subject to the trusts of the settlement is an estate for lives or years renewable for ever, or is an estate renewable for a term of not less than sixty years, or is an

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Definition of
owner of
land.

A.D. 1882.

estate for a term of years of which not less than sixty are unexpired, or is a greater estate than any of the foregoing estates :

- (d.) Any body corporate, any corporation sole, any trustees for charities, and any Commissioners or trustees for ecclesiastical, collegiate, or other public purposes entitled at law or in equity, and whether subject or not to incumbrances, in the case of freehold land to an estate in fee, and in the case of leasehold land to a lease for an unexpired term of not less than sixty years. 5

(3.) For the purposes of Part I. of this Act, any person absolutely entitled in possession, at law or in equity, for his own benefit to a lease of land for two or more lives in being, or for any term of years determinable on any two or more lives in being, or for any term of years absolute whereof at least twenty-five years are unexpired shall also be deemed to be an owner of land : 10

Provided that an application by any such person under Part I. of this Act shall not be entertained by the Commissioners unless such person has given notice in the prescribed manner to his immediate landlord or to the person entitled, on the determination of such lease as is mentioned in this section, to the next estate or interest in the land, of his intention to make such application. 15

(3.) Where several persons in succession have in any land such estates or interests as would entitle each of them to be deemed an owner under the foregoing provisions of this section, the person in actual occupation of the said land shall be deemed the owner thereof, or in case such last-mentioned person is not entitled to be deemed an owner, then the person having the first such estate or interest in reversion or remainder as may entitle him to be deemed an owner under the foregoing provisions of this section shall be deemed the owner of the said land : 20 25

Provided that in any case where the person for the time being deemed the owner of any land within the meaning of this subsection, neglects or omits, within the prescribed period after the prescribed notice has been given to him, to make an application for a loan for the improvement of such land, the person having in such land the next such estate or interest as may entitle him to be deemed an owner under this section, may make an application for a loan for the improvement of such land, and shall be deemed the owner thereof for the purposes of Part I. of this Act. 30 35

(4.) Joint tenants, tenants in common, and coparceners of any land, shall, in respect thereof, be accounted as one person, and shall together constitute the owner thereof for the purposes of this section : Provided that any such person or persons interested in or 40

possessing more than one half of such land shall, subject to the provisions aforesaid, be entitled to make such applications and do all such acts as an owner may make and do under this Act; and any such application or act, and the proceedings thereon, shall be
5 hindering upon the other persons interested in such lands, and upon their estates and interests therein.

A.D. 1862.

(5.) Where an owner as herein-before defined is a minor, or of unsound mind, or a married woman, the guardian, committee, or husband, as the case may be, of such owner shall be deemed to be
10 the owner within the meaning of this section; subject to this proviso, that a married woman entitled for her separate use, and not restrained from anticipation, shall for the purposes of this Act be treated as if she were not married.

69. In this Act the following words and expressions shall have
15 the meanings hereby assigned to them, unless there be something in the context repugnant thereto; that is to say,

General
definitions.

"Lord Lieutenant" includes the lords justices or other chief governor or governors of Ireland for the time being:

"Treasury" means the Commissioners of Her Majesty's Treasury:

20 "Commissioners" means the Commissioners of Public Works in Ireland:

"High Court" means Her Majesty's High Court of Justice in Ireland:

"Land" includes any right of water:

25 "Watercourse" includes any river, stream, drain, sewer, or passage through which water flows:

"Prescribed" means prescribed by regulations made in pursuance of the Board of Works (Ireland) Act, 1853:

30 "Settlement" includes any Act of Parliament, will, deed, or other assurance whereby particular estates or particular interests in land are created, with remainders or interests expectant thereon:

"Person" includes any body of persons corporate or unincorporate.

70. The Acts specified in the Second Schedule to this Act shall
35 be repealed from and after the commencement of this Act to the extent in the third column of the said schedule mentioned; but the said repeal shall not affect any powers, duties, and liabilities existing at the commencement of this Act in relation to the maintenance of any works for arterial drainage by any trustees of a drainage district, and in relation to the appointment of new trustees for the
40 purpose of such maintenance; nor shall the said repeal affect—

Repeal, and
provision as
to references
to repealed
Acts.

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[A.D. 1882.]

- (a.) Any right, obligation, or liability acquired, accrued, or incurred under or in accordance with any Act or enactment hereby repealed; nor
- (b.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any Act or enactment hereby repealed; nor
- (c.) Any power, investigation, legal proceeding, or remedy, in respect of any such right, obligation, liability, penalty, forfeiture, or punishment, as aforesaid; and any such power, investigation, legal proceeding, and remedy, may be exercised, 10 and carried on, and had, as if this Act had not passed.

From and after the commencement of this Act, and subject as aforesaid,—

- (1) the provisions of Part I. of this Act shall be substituted for the Acts and enactments mentioned in the first part of the 15 second schedule to this Act and hereby repealed; and any reference in any Act to any of the said Acts or enactments, or to any enactment in any of the said Acts, or to the Commissioners for the execution of any of the said Acts, shall, so far as is consistent with the tenor thereof, be deemed to refer to 20 Part I. of this Act, or to the corresponding enactment in Part I. of this Act, or to the Commissioners as defined in this Act; and
- (2) the provisions of Part II. of this Act shall be substituted for the Acts mentioned in the second part of the said second 25 schedule and hereby repealed; and any reference in any Act to any of the said Acts, or to any enactment in any of the said Acts, or to the Commissioners for the execution of any of the said Acts, shall, so far as is consistent with the tenor thereof, be deemed to refer to Part II. of this Act, or to the corresponding 30 enactment in Part II. of this Act, or to the Commissioners as defined in this Act.
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THE FIRST SCHEDULE.

A.D. 1863.

SCALE OF VOTING AT ELECTION OF MEMBERS OF DRAINAGE
BOARD.

5 If the lands of the elector within the drainage district for which the election is held are of an annual value of less than fifty pounds, he shall have one vote.

If such lands are of an annual value of fifty pounds and less than one hundred pounds, he shall have two votes.

10 If such lands are of an annual value of one hundred pounds and less than one hundred and fifty pounds, he shall have three votes.

If such lands are of an annual value of one hundred and fifty pounds and less than two hundred pounds, he shall have four votes.

If such lands are of an annual value of two hundred pounds and less than two hundred and fifty pounds, he shall have five votes.

15 If such lands are of an annual value of two hundred and fifty pounds and less than five hundred pounds, he shall have six votes.

If such lands are of an annual value of five hundred pounds and less than one thousand pounds, he shall have eight votes.

20 If such lands are of an annual value of one thousand pounds or upwards, he shall have ten votes.

RULES AS TO ELECTION OF MEMBERS OF DRAINAGE BOARD.

1. The chairman of the board of the previous year, or some person appointed by him, shall be the returning officer.

25 2. If at any time, from any default of such chairman, or from any reason, there is no returning officer, or such returning officer is unwilling or unable to act, the members of the board of the preceding year may appoint a returning officer in his stead.

3. The election of new members shall take place on the first Thursday, or on such other day as may be appointed by the board,
30 in September in every year, excepting the year in which the order of the Commissioners is made.

4. On every occasion of the election of new members of the board the returning officer shall convene a meeting of the electors for the purpose of such election, and shall give notice of such meeting, and
35 of the time and place at which it is to be held—

(a.) by advertisement in some newspaper or newspapers circulating in the district, and

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A.D. 1888.

(d.) by causing a copy of such notice to be affixed to the outer door of the principal office of the board.

Such advertisement shall be published and such copy shall be fixed not less than fourteen days before the day appointed for the election.

5. The returning officer shall preside and regulate the proceedings at such meeting; and such meeting shall, so far as relates to the nomination of candidates, be deemed to be at an end at the expiration of two hours from the time appointed for the holding of such meeting.

6. At any such meeting any qualified person or persons may, with his or their consent, be nominated by any elector, and seconded by any other elector, as a member or members of the board in the place of any retiring member or members.

7. If more candidates are proposed than the number to be elected, 15 the returning officer shall forthwith, in such manner as appears to him most convenient, ascertain the number of votes for such candidates, and the election and return of such candidates shall be determined by the majority of the votes; but if no more candidates are proposed than the number to be elected, a declaration by the 20 returning officer that the candidates are elected members of the board shall be evidence of the fact.

8. For the purpose of ascertaining the votes of the electors, the returning officer may, if he thinks fit, or if it is necessary or expedient, hold an adjourned meeting of the electors at such time 25 and place as he may fix and publicly announce at such first meeting.

9. Votes may be given either personally or by proxy. A proxy shall be appointed under the hand of the appointer, but no person shall be appointed a proxy unless he is a qualified elector.

10. The returning officer shall cause to be entered in the polling books to be kept for that purpose the name and address of every voter, and the manner in which he votes.

11. After the election the returning officer shall, as soon as possible, publish the names of the candidates elected as herein 35 mentioned :—

(a.) by advertisement in some newspaper or newspapers circulating in the district, and

(b.) by causing a list of such candidates to be affixed to the outer door of the principal office of the board.

RULES AS TO PROCEEDINGS OF DRAINAGE BOARD.

A.D. 1882.

1. The drainage board shall meet together for the despatch of business, and shall from time to time make such regulations with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business, as they think fit, subject to the following conditions :—That

(a.) No business shall be transacted at any meeting unless at least three members are present at the commencement and close of such business :

(b.) Every question shall be decided by a majority of votes of the members present and voting on that question :

(c.) The names of the members present, as well as of those voting upon each question, shall be recorded.

2. The board shall, at their first meeting, and afterwards from time to time at their first meeting after each annual election, appoint one of their number to be chairman for the year following such choice.

3. If any casual vacancy occurs in the office of chairman, the board shall, as soon as they conveniently can after the occurrence of such vacancy, choose some member of their number to fill such vacancy, and every such chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such vacancy had not happened.

4. If at any meeting the chairman is not present at the time appointed for holding the same, the members present shall choose some one of their number to be chairman of such meeting.

5. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

6. A committee of the board may elect a chairman of their meetings. If no such chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be chairman of such meeting.

7. A committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present and voting ; and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote.

A.D. 1863. 8. The board shall cause minutes to be made in books provided for the purpose :—

- (a.) Of all the appointments of officers made by the board ;
- (b.) Of the names of the members present at each meeting of the board, and of committees of the board ;
- (c.) Of all orders made by the board, and by committees of the board ;
- (d.) Of all resolutions and proceedings of meetings of the board, and of committees of the board.

Any such minutes, if signed by any person purporting to be 10 the chairman of any meeting of the board, or of a committee of the board, shall be receivable in evidence without any further proof.

THE SECOND SCHEDULE.

FIRST PART.

Improvement of Land Acts.

15

Session and Chapter.	Title or Short Title.	Extent of Repeal.
10 Viet. c. 32. -	An Act to facilitate the Improvement of Landed Property in Ireland.	The whole Act.
12 & 13 Viet. c. 59. -	An Act to amend an Act of the tenth year of Her Majesty, for facilitating the Improvement of Landed Property in Ireland.	The whole Act. 20
13 & 14 Viet. c. 31. -	An Act to authorise further Advances of Money for Drainage, and the Improvement of Landed Property in the United Kingdom, and to amend the Acts relating to such Advances.	Section eight. 25
15 & 16 Viet. c. 34. -	An Act to extend the Act to facilitate the Improvement of Landed Property in Ireland and the Acts amending the same, and the creation of Scotch Mills for Flax in Ireland.	The whole Act. 30
23 Viet. c. 19. -	An Act to extend the Act to facilitate the Improvement of Landed Property in Ireland, and the Acts amending the same, to the creation of Dwellings for the Labouring Classes in Ireland.	The whole Act. 35
25 & 26 Viet. c. 29. -	An Act to amend and enlarge the Act for the Improvement of Landed Property in Ireland.	The whole Act.
29 & 30 Viet. c. 40. -	An Act to authorise a further Advance of Money for the Purposes of Improvement of Landed Property in Ireland.	The whole Act. 40
40 & 41 Viet. c. 27. -	The Public Works Loans (Ireland) Act, 1877.	Section seven.

SECOND PART.

A.D. 1883

Arterial Drainage Acts.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
1 & 2 Will. 4. c. 37. -	An Act to empower Landed Proprietors in Ireland to sink, embank, and remove Obstructions in Rivers.	The whole Act.
5		
5 & 6 Vict. c. 89. -	An Act to promote the Drainage of Lands, and Improvement of Navigation and Water Power in connection with such Drainage, in Ireland.	The whole Act.
10		
9 Vict. c. 4. -	<i>An Act the title of which begins with the words,—An Act to amend, and ends with the words,—during the present year.</i>	The whole Act.
16 & 17 Vict. c. 130. -	An Act to amend the Acts for promoting the Drainage of Lands and Improvements in connection therewith in Ireland.	The whole Act.
15		
26 & 27 Vict. c. 88. -	The Drainage and Improvement of Lands Act (Ireland), 1863.	The whole Act.
27 & 28 Vict. c. 72. -	An Act to explain certain provisions contained in the Drainage and Improvement of Lands (Ireland) Act, 1863.	The whole Act.
20		
28 & 29 Vict. c. 52. -	The Drainage and Improvement of Lands Amendment Act (Ireland), 1865.	The whole Act.
29 & 30 Vict. c. 49. -	The Drainage Maintenance Act, 1866.	The whole Act.
25		
32 & 33 Vict. c. 79. -	The Drainage and Improvement of Lands Amendment Act (Ireland) 1869.	The whole Act.
35 & 36 Vict. c. 51. -	The Drainage and Improvement of Lands Amendment Act (Ireland), 1872.	The whole Act.
37 & 38 Vict. c. 52. -	The Drainage and Improvement of Lands Amendment Act (Ireland), 1874.	The whole Act.
30		
41 & 42 Vict. c. 59. -	The Drainage and Improvement of Lands (Ireland) Act, 1878.	The whole Act.
43 & 44 Vict. c. 27. -	The Drainage and Improvement of Lands (Ireland) Act, 1880.	The whole Act.

Land Improvement and Arterial Drainage (Ireland).

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To consolidate and amend the Acts for facilitating the Improvement of Landed Property, and for the Drainage and Improvement of Lands in Ireland.

*(Prepared and brought in by
Mr. Courtney and Mr. Herbert Gladstone.)*

*Ordered, by The House of Commons, to be Printed,
10 May 1883.*

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[Bill 189.]